IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 22211 of 2004

Between:

Potla Subbamma, W/o.Potla Venkataramaiah,
R/o.H.No.15-1-614/3, 15th Ward (RTC Colony),

Macherla Municipality, Macherla, Guntur District.

..... PETITIONER

AND

1 The Deputy Executive Engineer, Roads and Buildings,
C/o. Macherla R&B Office, Macherla, Guntur District.

2 The Revenue Divisional Officer, R.D.O's Office,
Narasaraopet Guntur District.

3 K.Madhusudhan Reddy, S/o. Joji Reddy,
C/o.P.Ramakrishna Reddy, Siva Teja Wines,

Opp. APSRTC Bus Stand, Macherla,

Guntur District.

4 The Registrar (Administration), High Court of A.P.,

Hyderabad.
(R4 is impleaded as per the court order dt. 8-12-2004).

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of writ of Mandamus by declaring the action of the 1st and 3rd Respondents in constructing a wall closing the path connecting the people of the 15th Ward to the Village of Macherla as illegal, arbitrary, against the principles of natural justice, unconstitutional and consequently direct the 1st and 3rd respondents not to construct the wall and to provide path to the 15th Ward (RTC Colony), Macherla, Guntur District and to pass such other order or orders

For the Petitioner: MR. S.SATYANARAYANA MOORTHY, Advocate.

For Respondent No. 1: Government Pleader for Roads and Buildings.

For Respondent No.2: GP FOR REVENUE

For Respondent No. 4: Smt. Bhaskara Lakshmi, Standing Counsel for APHC.

The Court made the following Order: (per Sri B. Sudershan Reddy, J)

In the additional counter affidavit filed by the Deputy Executive Engineer, the 1st respondent herein, it is stated in clear and categorical terms that if the compound walls are constructed in accordance with the sanctioned estimates, there will be some space between the two compound walls, which is approximately four metres. The space in respect of which the petitioner is asserting right to be left as pathway to reach the main road from the colony is admittedly allotted to the Judicial Department.

Adverting to the issue as to whether there is any alternative pathway to the residents of the colony to reach the main road, it is explained that the approximate length of the pathway through the space between the two buildings of the Judicial Department is 50 metres. On physical verification, it is found that there is a pathway from south-west of the colony and the residents of the colony can reach the State Highway through donka and the total distance would be just 200 metres to their colony from the State Highway road. It is also found that there is an alternative pathway from the north-west of the colony of the petitioners to reach the State Highway and the distance would be just about 320 metres. There is also another road opposite to the said road to reach the State Highway and the distance is approximately 330 metres.

The averments made in the additional affidavit filed by the Deputy Executive Engineer and the averments made by the Registrar (Administration), the 4th respondent herein very clearly reveal that accessibility to enter into the colony is not at all closed as alleged by the petitioner in the affidavit. There are more than one ways to reach the colony and the main road. The petitioner, in our considered opinion, indulged in unnecessary and speculative litigation. The petitioner has no right to insist that some space should be provided through the land allotted to the Judicial Department by the Revenue Department for the purposes of construction of road. Admittedly, the construction of the court building and the residential quarter is already completed and the Court is functioning in the newly constructed building and even the residential quarter has been occupied by the officer. It would be in the fitness of things that both the court building and the judicial officer's quarter are enclosed by a compound wall which in no way adversely affects the interests of the petitioner.

It shall be open to the petitioner to seek the assistance of the concerned Department

for laying any pucca approach road through one of the existing pathways which shall be duly and sympathetically considered by the concerned Department.

(B. Sudershan Reddy, J)

21-12-2004

(C.V. Ramulu, J)

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To

1 The Deputy Executive Engineer, Roads and Buildings,
C/o. Macherla R&B Office, Macherla, Guntur District.

2 The Revenue Divisional Officer, R.D.O's Office,
Narasaraopet Guntur District.

3 The Registrar (Administration), High Court of A.P.,

Hyderabad.

4 Two CCs to the Government Pleader for Roads and Buildings,

High Court of Andhra Pradesh, Hyderabad (OUT).

5 Two CCs to the Government Pleader for Revenue, High Court of Andhra Pradesh, Hyderabad (OUT).

6 Two CD copies.